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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,230	05/06/2005	Anthony John Watling	415.0011	3376
25534 7590 01/14/2009 CAHN & SAMUELS LLP 1100 17th STREET NW SUITE 401 WASHINGTON, DC 20036				
EXAMINER				
PARKER, FREDERICK JOHN				
ART UNIT		PAPER NUMBER		
1792				
MAIL DATE		DELIVERY MODE		
01/14/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,230

Applicant(s)

WATLING, ANTHONY JOHN

Examiner

Frederick J. Parker

Art Unit

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59, 61, 69 and 70 is/are rejected.
- 7) ☒ Claim(s) 60 and 62-68 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9-22-08 has been entered.

Specification

2. The disclosure is objected to because of the following informalities: page 12, lines 8-11, the paragraph includes the phrase "glassing up" which, in context, is unclear; is not defined; and cannot be ascertained by one of ordinary skill. The Examiner made a good faith effort to find a realistic meaning related to a slurry both in available technology dictionaries and on Google without success. For examination, the Examiner literally interprets the phrase to mean an amount of flux which prevents the *slurry* from becoming a glass or glassy material. Nonetheless, Applicants should confirm this interpretation or otherwise explain the intended meaning along with dictionary or other support for the meaning. Appropriate correction is required.

Claim Objections

3. Claims 59,69,70 are objected to because of the following informalities: for clarity, it is suggested to include the word "added" before "colorants" in each slurry applying step. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 59,69 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for acrylic latex or alkyd-based tinting compositions, does not reasonably provide enablement for any organic or inorganic tinting composition. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to carry out the invention commensurate in scope with these claims. The tinting composition is disclosed on page 4, 10-13; etc.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 59,61,70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claims 59, 70 are vague and indefinite are vague and indefinite because the meaning of “glassing” of the slurry in context is unclear and not ascertainable by one of ordinary skill; the comments from section 2 are incorporated herein.
- Claim 61 is vague and indefinite because the intended “sources” of “clay suspension sources” is unclear.

8. The prior art does not teach nor suggest using a suitable amount of flux to prevent glassing (as interpreted above) of the slurry; application of the slurry composition as recited; and subsequent recited treatment/s and application of a tinting composition. Claims 60, 62-68 are objected to for depending from a rejected base claim. The Examiner invites Applicant or his representative to have an interview of outstanding issues which the Examiner believes to be non-trivial.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick J. Parker whose telephone number is 571/ 272-1426. The examiner can normally be reached on Mon-Thur. 6:15am -3:45pm, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571/272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Frederick J. Parker

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Primary Examiner

Art Unit 1792

/Frederick J. Parker/

Primary Examiner, Art Unit 1792